

REMARKS

Claims 1-8, 10-26 are currently pending in this application. Claims 1-8, 10-12 and 23-26 have been withdrawn from consideration by the Examiner. Claims 13, 17 and 21-22 have been amended.

Claims 13-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,107,004 to Donadio, III in view of U.S. Patent No. 5,421,955 to Lau et al., and in view of U.S. Patent No. 5,267,381 to Wright et al.

Restriction Requirement

Although Applicants previously traversed the restriction requirement and requested reconsideration and withdrawal of the Election/Restriction based on several grounds including, among others, that no serious burden is imposed if restriction is not required, the Examiner nevertheless maintained and has made final the restriction requirement. In doing so, the Office Action stated that “the apparatus can be used for other processes such as making cardboard cartons.” *See* Office Action, p. 2. However, the apparatus claimed is “adapted to identify the positioning of at least one strut of a medical device” and includes a laser wherein the “laser is adapted to ablate the selected portion of the coating from the medical device as the medical device is rotated.” *See* Application, claim 13. Applicants respectfully maintain that the claimed apparatus for laser ablating a coating of a medical device cannot be used to make cardboard cartons.

In addition, Applicants assert that the Office Action does not address the other arguments advanced in the Applicants’ traversal. *See* MPEP 821.01 (“Examiner should reply to the reasons or arguments advanced by Applicant in the traverse.”) Accordingly, for the reasons stated above, and the reasons previously advanced in the Applicants’ response to the Restriction requirement, Applicants reserve their right to petition the final restriction requirement to the Director under 37 CFR 1.144.

The Claims Are Patentable Over Donadio In View Of Lau In View Of Wright

Claims 13-22 stand rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 6,107,004 to Donadio, III in view of U.S. Patent No. 5,421,955 to Lau et al., and in view of U.S. Patent No. 5,267,381 to Wright et al.

Independent device claim 13 recites the structural limitations of a pattern recognition system adapted to “identify the positioning of at least one strut of a medical device relative to the laser, determine whether the strut is in a desired position relative to the laser, and provide output to correct positioning of the strut relative to the laser.” Without addressing the propriety of combining the three references, Applicants assert that none of the references, alone or in combination, discloses or suggests at least the above limitations, and for at least these reasons, the provisionally elected claims are patentably distinct over the cited references.

Neither Donadio nor Lau discloses or suggests a pattern recognition system; thus, these two references do not supply the above missing limitations. Donadio generally regards using electrodes to cut slots in a stent by electrostatic discharge machining (EDM). *See* Donadio, Abstract. Donadio does not disclose or describe a pattern recognition system. Likewise, Lau, which generally regards removal of an etchant-resistive coating mask to expose the substrate surfaces for removal of underlying material by a chemical etching process, does not disclose a pattern recognition system. *See* Lau, col. 3:17-27.

Wright also fails to disclose or suggest a pattern recognition system as claimed. The Office Action points to Wright, col. 7:42-45, as regarding a pattern recognition system. *See* Office Action, p. 3. However, the referenced passage in Wright regards a pattern recognition of the “ability to determine the type of defect, such as a step or nick, on the face 30 of tube 18,” (*see* Wright, col. 7:42-45), by sensing “the height differential on the face 30 of tube 18.” *See* Wright,

col. 7:34-35. The device in Wright “compare[s] the output ... with the preset acceptable limits programmed into processing means 94 ... to determine if tube 18 is acceptable as a tube with a good tube face.” *See* Wright, col. 7:47-51; 8:44-53. In other words, Wright uses a pattern recognition system to compare the planar surface of the tube face relative to a “preset” surface pattern to check for dimensional tolerances (*e.g.*, surface waviness such as “nicks” or “steps” on the face).

Accordingly, Wright does not disclose or suggest at least the limitation of a pattern recognition system adapted to “identif[y] the positioning of at least one strut of a medical device.” Rather, the system in Wright identifies height dimensions on the planar end “face 30 of the tube”—not the position of a strut of a medical device. *See* Wright, col. 7:42-45. Wright simply senses surface defects (and not mis-positioned struts) on the tube face.

In addition, Wright does not disclose or suggest at least the limitation of a pattern recognition system adapted to “determine whether the strut is in a desired position relative to the laser.” Rather, Wright compares output data of tube face height dimensions against dimensions of a “preset” model pattern of a “good tube face” for determining whether planar dimensions conform to known dimensional tolerances, such as surface waviness, “steps” or “nicks.” *See* Wright, col. 7:47-51; 8:44-53. To the extent Wright “positions” anything, it “positions” the tube face surface image against a model pattern, and not relative to a laser, as claimed.

Moreover, Wright does not disclose or suggest at least the limitation of a pattern recognition system adapted to “provide output to correct positioning of the strut relative to the laser.” Wright does not provide information to re-position stents that have been mis-positioned, let alone provide re-positioning output data relative to the laser to ensure accurate ablation. Wright does not provide corrections to the controllers to alter stent positioning relative to a laser.

Rather, in Wright “[i]f the analysis determines that a defect exists on the face 30 for tube 18, then tube 18 will have to be reworked. ... To rework tube 18, tube 18 may remain at the same location. As previously described, the cutting mechanism may cut and finish the face” followed by an inspection. *See* Wright, col. 8:53-60. Thus, the device in Wright merely re-cuts the face without re-positioning the tube, and compares the re-cut face against the preset model pattern again. Wright certainly does not provide output to “correct positioning of the strut,” as claimed.

In addition, there is no suggestion or motivation to modify the primary reference of Donadio with the pattern recognition feature of Wright to identify and position a strut relative to a laser, or to provide output to re-position the strut relative to the laser. One of ordinary skill in the art would not look to Wright, which discloses a dimensional tolerance checking system, to supply the missing system of altering strut positioning relative to a laser based on corrective output. Moreover, none of the cited references addresses the problem of correcting strut positioning relative to the laser for accurate ablation.

Thus, the applicants respectfully submit that claims 13-22 are patentable over the references either alone or in combination.

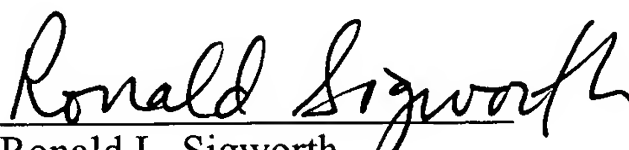
The Commissioner is hereby authorized to charge Kenyon & Kenyon LLP Deposit

Account No. 11-0600 for any applicable fee.

Should there be any questions concerning this matter, the Examiner is invited to contact the Applicant's undersigned attorney.

Respectfully submitted,

Dated: March 5, 2007


Ronald L. Sigworth
Reg. No. 53,592

KENYON & KENYON LLP
1500 K Street, N.W.
Washington, D.C. 20005
202-220-4200 (phone)
202-220-4201 (facsimile)